

LFC Requester:

Connor Jorgensen

### AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 2025/1/30

*Check all that apply:*

**Bill Number:** HB224

Original  x  Correction    
Amendment   Substitute

**Sponsor:** Rep. Christine Chandler  
Rep. Patricia Roybal  
Caballero

**Agency Name and Code Number:** 305 – New Mexico  
Department of Justice

**Person Writing Analysis:** Ben Lovell

**Short Title:** STUDENT LOAN BILL OF  
RIGHTS ACT

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act: This bill creates a fund but does not appropriate money to it

### **SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

### **BILL SUMMARY**

#### Synopsis:

This bill creates the Student Loan Bill of Rights Act, outlining licensing requirements for entities acting as student loan servicers in New Mexico. The bill creates protections for student loan borrowers as well as cosigners.

**Section 1:** The act is officially titled the "Student Loan Bill of Rights Act," covering sections 1 through 27.

**Section 2:** Contains various definitions.

**Section 3:** Any entity acting as a student loan servicer must first obtain a license from the financial institutions division of the regulation and licensing department, unless exempt. Banks, credit unions, their subsidiaries, and the higher education department are exempt from licensing.

**Section 4:** Applicants must submit various materials, including financial statements verified by a public accountant, criminal background information, and a non-refundable fee for licensing and investigation (up to \$5,000 each). The division must approve an application and grant a license if the applicant meets various requirements.

**Section 5:** Entities providing student loan servicing under a contract with the U.S. Department of Education (under 20 U.S.C. Section 1087f) are automatically eligible for a license after paying required fees. Federal contractors are exempt from certain licensing requirements but must comply with record retention rules. Contractors must notify the director within 7 days if their contract expires, is revoked, or terminated, and must meet full licensing requirements within 30 days to maintain their license. If federal contractors fail to meet the requirements within the deadline, the director will suspend their license.

**Section 6:** Contains various provisions relating to the renewal, surrender, and suspension of licenses.

**Section 7:** Servicers must operate under the licensed name and location. Changes require prior notice. Licenses are non-transferable.

**Section 8:** Servicers must keep student loan records for at least six years and provide them to the director within five days of a request.

**Section 9:** Servicers must respond to borrower inquiries promptly and apply overpayments or prepayments as directed by the borrower. When servicing is transferred, the new servicer must honor all borrower benefits and notify the borrower at least 7 days before the next payment. Servicers must inform borrowers about income-based repayment options before placing them in forbearance or default.

**Section 10:** Student loan servicers are prohibited from fraudulent, misleading, or abusive practices. Violations of this Act are violations of the UPA.

**Section 11:** If a borrower or cosigner becomes totally and permanently disabled, a cosigner is released from the loan obligations, and the lender must not attempt to collect from them. Lenders must notify the borrower and cosigner within 30 days of the discharge. The borrower must have the option to designate someone to act on their behalf in case of permanent disability. A lender cannot declare default or accelerate the debt simply due to the cosigner's release.

**Section 12:** Private education lenders must offer flexible repayment options to all borrowers and make these options publicly available.

**Section 13:** Lenders must inform the cosigner of: (1) how the loan will affect their credit; (2) the process for curing delinquency to avoid negative credit impacts; (3) the criteria for releasing the cosigner from loan obligations. Lenders must inform borrowers refinancing existing loans that they may lose certain benefits and protections associated with the original loan. All information must be provided in a simple, readable format on a one-page document.

**Section 14:** Lenders must provide annual notices to both the borrower and cosigner about the criteria and process for cosigner release. If the borrower meets payment requirements, the lender must notify both parties. Lenders cannot impose permanent restrictions on cosigner release, and borrowers have the right to appeal denials. Lenders must maintain a "comprehensive record management system" for release applications.

**Section 15:** Cosigners have the right to access all loan documents the borrower can see, including electronic access. Lenders must redact contact information if requested.

**Section 16:** Lenders cannot accelerate loan payments except in cases of payment default. In cases of a cosigner's death or bankruptcy, terms cannot be changed unless the loan is more than 60 days delinquent. Loans cannot be accelerated while the borrower is applying for loan modification.

**Section 17:** Private lenders are prohibited from offering loans in violation of federal law, and cannot secure an assignment by salary, wages, or commissions. Private lenders may not engage in various unfair practices. A violation of the section also constitutes an unfair trade practice under the UPA.

**Section 18:** The director can monitor the student loan market, gather data on risks, and assess how well private education lenders and servicers are complying with the law. Regular reports and performance metrics will be published.

**Section 19:** The director can conduct investigations for licensing, compliance, or violations of

the Student Loan Bill of Rights Act. They can access relevant documents and information and have subpoena power for testimony and documents. The director can hire professionals, collaborate with other agencies, and use software for investigations. The student loan servicer or lender is responsible for the costs of investigations, including travel expenses if applicable.

**Section 20:** The director can deny, suspend, or revoke licenses for violations of the Student Loan Bill of Rights Act, order lenders to refrain from certain activities, and can impose penalties up to \$5,000 for each violation.

**Section 21:** Courts may impose temporary restraining orders, injunctions, civil penalties, restitution, and other relief when violations are found. Courts should consider any prior administrative actions when determining relief. The director does not need to post a bond in enforcement actions.

**Section 22:** Student loan servicers and private education lenders must comply with applicable federal laws. Violations of these laws also count as violations of the state Student Loan Bill of Rights Act.

**Section 23:** The director can issue rules to implement the Act and must notify licensees at least 15 days before rules take effect.

**Section 24** provides that the director must appoint an ombud to assist student loan borrowers and review complaints, assist borrowers, analyze data, and make recommendations. The ombud, the state department of justice, and the higher education department must meet quarterly. A student loan borrower education course must be created by July 2026. The director must report detailed statistics to the Legislature.

**Section 25** states that an agreement must be made for sharing information among the division, ombud, justice department, and higher education department.

**Section 26** creates a private right of action. Borrowers can sue for damages, injunctions, restitution, and attorney fees if servicers violate the Act. If a servicer's violation substantially interferes with the borrower's rights, the court will award treble damages. The Section states that borrowers do not need to exhaust administrative remedies before pursuing a private right of action.

**Section 27** creates a non-reverting fund is established to support the Student Loan Bill of Rights Act to be used by the division to enforce the Act. Expenditures will be managed by the division through the finance department.

**Section 28** amends the Unfair Practices Act to include violations of the Student Loan Bill of Rights Act as unfair or unconscionable trade practices.

**Section 29** applies the Act to loans issued on or after January 1, 2026.

**Section 30** states that the Act's provisions will take effect on January 1, 2026.

## **FISCAL IMPLICATIONS**

The NMDOJ would have to perform additional tasks without a matching appropriation. Under the act, the NMDOJ must work with the student loan ombud to provide information, investigate

complaints from borrowers, help to create educational materials, and meet quarterly with the higher education department. Sections 18(E), 24(B-E), 25. Additionally, the NMDOJ must collaborate with the ombud and higher education department to establish and maintain a student loan borrower education course on or before July 26, 2025. Section 24(D). The director must submit an annual report for each licensee listing the number of loan borrower and cosigner complaints investigated by the NMDOJ. Section 24(E)(3). The NMDOJ would have to provide this information. Section 25 requires the NMDOJ to enter into an information-sharing agreement with the higher education department, the division, and the student loan ombud by July 31, 2026.

These additional enforcement duties may have fiscal implications for the NMDOJ, as additional resources will be required to meet its obligations. It is unclear how many, if any, additional Full-Time Equivalent (FTE's) may be necessary to perform these tasks.

## **SIGNIFICANT ISSUES**

Section 4(F)(3) states that a license shall be issued if the director finds that “the applicant's business will be conducted honestly, fairly, equitably, carefully, efficiently and in a manner commanding the confidence and trust of the community.” It is unclear what criteria the director is supposed to apply in making these determinations, which could lead to allegations of subjective enforcement and lead to challenges to the Act.

## **PERFORMANCE IMPLICATIONS**

As discussed in Fiscal Implications above, this act would require the NMDOJ to perform new functions without appropriating additional funds.

## **ADMINISTRATIVE IMPLICATIONS**

See above.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Due to differing amendments to the UPA, conflict with:

HB61 – Unfair Practice Act Changes

SB221 – Additional Unfair Insurance Claims Practice

Related to:

HB69 – Public Service Loan Forgiveness Multiplier

HB90 & SB8 – Veterinary Medical Loan Repayment

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

**AMENDMENTS**

None.